

## Comptroller of the Currency, Treasury

## § 3.34

(iii) Credit-enhancing representations and warranties that are not securitization exposures;

(iv) Off-balance sheet securities lending transactions (the off-balance sheet component of which equals the sum of the current fair values of all positions the national bank or Federal savings association has lent under the transaction);

(v) Off-balance sheet securities borrowing transactions (the off-balance sheet component of which equals the sum of the current fair values of all non-cash positions the national bank or Federal savings association has posted as collateral under the transaction);

(vi) Financial standby letters of credit; and

(vii) Forward agreements.

### § 3.34 OTC derivative contracts.

(a) *Exposure amount*—(1) *Single OTC derivative contract*. Except as modified by paragraph (b) of this section, the exposure amount for a single OTC derivative contract that is not subject to a qualifying master netting agreement is equal to the sum of the national bank's or Federal savings association's current credit exposure and potential future credit exposure (PFE) on the OTC derivative contract.

(i) *Current credit exposure*. The current credit exposure for a single OTC derivative contract is the greater of

the mark-to-fair value of the OTC derivative contract or zero.

(ii) *PFE*. (A) The PFE for a single OTC derivative contract, including an OTC derivative contract with a negative mark-to-fair value, is calculated by multiplying the notional principal amount of the OTC derivative contract by the appropriate conversion factor in Table 1 to § 3.34.

(B) For purposes of calculating either the PFE under this paragraph (a) or the gross PFE under paragraph (a)(2) of this section for exchange rate contracts and other similar contracts in which the notional principal amount is equivalent to the cash flows, notional principal amount is the net receipts to each party falling due on each value date in each currency.

(C) For an OTC derivative contract that does not fall within one of the specified categories in Table 1 to § 3.34, the PFE must be calculated using the appropriate "other" conversion factor.

(D) A national bank or Federal savings association must use an OTC derivative contract's effective notional principal amount (that is, the apparent or stated notional principal amount multiplied by any multiplier in the OTC derivative contract) rather than the apparent or stated notional principal amount in calculating PFE.

(E) The PFE of the protection provider of a credit derivative is capped at the net present value of the amount of unpaid premiums.

TABLE 1 TO § 3.34—CONVERSION FACTOR MATRIX FOR DERIVATIVE CONTRACTS <sup>1</sup>

Remaining maturity <sup>2</sup>	Interest rate	Foreign exchange rate and gold	Credit (investment grade reference asset) <sup>3</sup>	Credit (non-investment-grade reference asset)	Equity	Precious metals (except gold)	Other
One year or less .....	0.00	0.01	0.05	0.10	0.06	0.07	0.10
Greater than one year and less than or equal to five years .....	0.005	0.05	0.05	0.10	0.08	0.07	0.12
Greater than five years	0.015	0.075	0.05	0.10	0.10	0.08	0.15

<sup>1</sup> For a derivative contract with multiple exchanges of principal, the conversion factor is multiplied by the number of remaining payments in the derivative contract.

<sup>2</sup> For an OTC derivative contract that is structured such that on specified dates any outstanding exposure is settled and the terms are reset so that the fair value of the contract is zero, the remaining maturity equals the time until the next reset date. For an interest rate derivative contract with a remaining maturity of greater than one year that meets these criteria, the minimum conversion factor is 0.005.

<sup>3</sup> A national bank or Federal savings association must use the column labeled "Credit (investment-grade reference asset)" for a credit derivative whose reference asset is an outstanding unsecured long-term debt security without credit enhancement that is investment grade. A national bank or Federal savings association must use the column labeled "Credit (non-investment-grade reference asset)" for all other credit derivatives.

(2) *Multiple OTC derivative contracts subject to a qualifying master netting agreement.* Except as modified by paragraph (b) of this section, the exposure amount for multiple OTC derivative contracts subject to a qualifying master netting agreement is equal to the sum of the net current credit exposure and the adjusted sum of the PFE amounts for all OTC derivative contracts subject to the qualifying master netting agreement.

(i) *Net current credit exposure.* The net current credit exposure is the greater of the net sum of all positive and negative mark-to-fair values of the individual OTC derivative contracts subject to the qualifying master netting agreement or zero.

(ii) *Adjusted sum of the PFE amounts.* The adjusted sum of the PFE amounts,  $Anet$ , is calculated as  $Anet = (0.4 \times Agross) + (0.6 \times NGR \times Agross)$ ,

where:

(A)  $Agross$  = the gross PFE (that is, the sum of the PFE amounts as determined under paragraph (a)(1)(ii) of this section for each individual derivative contract subject to the qualifying master netting agreement); and

(B) *Net-to-gross Ratio (NGR)* = the ratio of the net current credit exposure to the gross current credit exposure. In calculating the NGR, the gross current credit exposure equals the sum of the positive current credit exposures (as determined under paragraph (a)(1)(i) of this section) of all individual derivative contracts subject to the qualifying master netting agreement.

(b) *Recognition of credit risk mitigation of collateralized OTC derivative contracts:* (1) A national bank or Federal savings association may recognize the credit risk mitigation benefits of financial collateral that secures an OTC derivative contract or multiple OTC derivative contracts subject to a qualifying master netting agreement (netting set) by using the simple approach in § 3.37(b).

(2) As an alternative to the simple approach, a national bank or Federal savings association may recognize the credit risk mitigation benefits of financial collateral that secures such a contract or netting set if the financial collateral is marked-to-fair value on a daily basis and subject to a daily mar-

gin maintenance requirement by applying a risk weight to the exposure as if it were uncollateralized and adjusting the exposure amount calculated under paragraph (a)(1) or (2) of this section using the collateral haircut approach in § 3.37(c). The national bank or Federal savings association must substitute the exposure amount calculated under paragraph (a)(1) or (2) of this section for  $\Sigma E$  in the equation in § 3.37(c)(2).

(c) *Counterparty credit risk for OTC credit derivatives.* (1) *Protection purchasers.* A national bank or Federal savings association that purchases an OTC credit derivative that is recognized under § 3.36 as a credit risk mitigant for an exposure that is not a covered position under subpart F is not required to compute a separate counterparty credit risk capital requirement under § 3.32 provided that the national bank or Federal savings association does so consistently for all such credit derivatives. The national bank or Federal savings association must either include all or exclude all such credit derivatives that are subject to a qualifying master netting agreement from any measure used to determine counterparty credit risk exposure to all relevant counterparties for risk-based capital purposes.

(2) *Protection providers.* (i) A national bank or Federal savings association that is the protection provider under an OTC credit derivative must treat the OTC credit derivative as an exposure to the underlying reference asset. The national bank or Federal savings association is not required to compute a counterparty credit risk capital requirement for the OTC credit derivative under § 3.32, provided that this treatment is applied consistently for all such OTC credit derivatives. The national bank or Federal savings association must either include all or exclude all such OTC credit derivatives that are subject to a qualifying master netting agreement from any measure used to determine counterparty credit risk exposure.

(ii) The provisions of this paragraph (c)(2) apply to all relevant counterparties for risk-based capital purposes unless the national bank or Federal savings association is treating the OTC

credit derivative as a covered position under subpart F, in which case the national bank or Federal savings association must compute a supplemental counterparty credit risk capital requirement under this section.

(d) *Counterparty credit risk for OTC equity derivatives.* (1) A national bank or Federal savings association must treat an OTC equity derivative contract as an equity exposure and compute a risk-weighted asset amount for the OTC equity derivative contract under §§ 3.51 through 3.53 (unless the national bank or Federal savings association is treating the contract as a covered position under subpart F of this part).

(2) In addition, the national bank or Federal savings association must also calculate a risk-based capital requirement for the counterparty credit risk of an OTC equity derivative contract under this section if the national bank or Federal savings association is treating the contract as a covered position under subpart F of this part.

(3) If the national bank or Federal savings association risk weights the contract under the Simple Risk-Weight Approach (SRWA) in § 3.52, the national bank or Federal savings association may choose not to hold risk-based capital against the counterparty credit risk of the OTC equity derivative con-

tract, as long as it does so for all such contracts. Where the OTC equity derivative contracts are subject to a qualified master netting agreement, a national bank or Federal savings association using the SRWA must either include all or exclude all of the contracts from any measure used to determine counterparty credit risk exposure.

(e) *Clearing member national bank's or Federal savings association's exposure amount.* A clearing member national bank's or Federal savings association's exposure amount for an OTC derivative contract or netting set of OTC derivative contracts where the national bank or Federal savings association is either acting as a financial intermediary and enters into an offsetting transaction with a QCCP or where the national bank or Federal savings association provides a guarantee to the QCCP on the performance of the client equals the exposure amount calculated according to paragraph (a)(1) or (2) of this section multiplied by the scaling factor 0.71. If the national bank or Federal savings association determines that a longer period is appropriate, the national bank or Federal savings association must use a larger scaling factor to adjust for a longer holding period as follows:

$$\text{Scaling factor} = \sqrt{\frac{H}{10}}$$

where

H = the holding period greater than five days. Additionally, the OCC may require the national bank or Federal savings association to set a longer holding period if the OCC determines that a longer period is appropriate due to the nature, structure, or characteristics of the transaction or is commensurate with the risks associated with the transaction.

### § 3.35 Cleared transactions.

(a) *General requirements*—(1) *Clearing member clients.* A national bank or Federal savings association that is a clearing member client must use the methodologies described in paragraph (b) of

this section to calculate risk-weighted assets for a cleared transaction.

(2) *Clearing members.* A national bank or Federal savings association that is a clearing member must use the methodologies described in paragraph (c) of this section to calculate its risk-weighted assets for a cleared transaction and paragraph (d) of this section to calculate its risk-weighted assets for its default fund contribution to a CCP.

(b) *Clearing member client national banks or Federal savings associations*—(1) *Risk-weighted assets for cleared transactions.* (i) To determine the risk-weighted asset amount for a cleared transaction, a national bank or Federal